

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: May 18, 1981

SUBJECT: Kansas Implementation Plan Revision - Submittal on Conditional Approval of VOC and New Source Review Regulations

FROM: Robert L. Patrick
Office of Regional Counsel

Robert L. Patrick

TO: Gale Wright, Acting Chief
ARHM-ANRB

Attn: Ken Greer

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KS-12
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EPA - REG. VII
ARHM - ASUP
KANSAS CITY, MO.

In accordance with your request, dated May 13, 1981, I have reviewed the draft Federal Register notice for the subject submittal, and have the following comments:

1. The paragraph under the heading "Summary" does not clearly explain the general subject matter of the rulemaking, and the requirements on which the Kansas submittal is based. Therefore, I suggest that you add an introductory sentence similar to the following:

Part D of the Clean Air Act (Sections 171 to 178) requires that states amend their state implementation plans (SIPs) to provide for attainment, by specified dates, of the national ambient air quality standards for various air pollutants in areas in which the standards are being violated.

2. The draft indicates that the rulemaking will be immediately effective. While this approach may be appropriate, a justification for such action must be provided. Therefore, I suggest language similar to the following, to be inserted after the first full paragraph on page 3 of the draft:

EPA finds good cause for making this rulemaking immediately effective. The state regulations approved today are substantially the same as those approved by EPA in the April 3, 1981 rulemaking. Affected persons were therefore put on notice of EPA's action concerning the state regulations on that date.

3. The first paragraph on page 2 of the draft briefly describes the state's submittal in terms of EPA's conditional approval. However, the draft indicates that the temporary regulations for existing VOC sources and new sources became permanent because of action by the state legislature. In fact, the regulations became permanent because they were not rejected by the state legislature. Therefore, the third sentence of the paragraph, relating to action by the Kansas legislature, should be revised to read as follows:

The state has submitted additional information to correct two of the SIP deficiencies.

In the fourth sentence of the paragraph, the phrase "by the state legislature" should be omitted. Similarly, in the sixth sentence of the paragraph the phrase "by the state legislature" should be omitted.

In addition, to explain the mechanisms of the statute with respect to the regulations, an additional sentence should be added at the end of the paragraph as follows:

The temporary regulations became permanent by operation of a state statute, which provides that regulations to which no objection is made by the legislature may become permanent if certain procedural steps are followed.

The first paragraph on page 2 should refer to the appropriate effective date of the permit regulations which is May 1, 1981, rather than May 4, 1981.

4. In order to make it clear that no substantive changes have been made in the source requirements, as a result of the state's submittal, a sentence should be added to the paragraph ending at the top of page 3, as follows:

The permanent regulations contain the same substantive provisions as temporary regulations.

5. The second full paragraph on page 3 contains boilerplate language on the Regulatory Flexibility Act. Since the Administrator has recently certified that SIP revisions are not subject to the requirements of the Act, the boilerplate should be changed to incorporate the more recent language which refers to the Administrator's certification. This language has been used in some recent Federal Register notices. Please contact me if you cannot locate the specific language.